

Translation

PATENT COOPERATION TREATY

PCT/EP2003/014668



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 02SDT0482WOP	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/014668	International filing date (<i>day/month/year</i>) 19 December 2003 (19.12.2003)	Priority date (<i>day/month/year</i>) 20 December 2002 (20.12.2002)
International Patent Classification (IPC) or national classification and IPC B60R 13/08, C08L 95/00, C08K 7/02, C08L 99/00, 101/00		
Applicant SCHMIDT, Axel, H.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>5</u> sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 28 June 2004 (28.06.2004)	Date of completion of this report 15 December 2004 (15.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

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I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-20, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 1-28, filed with the letter of 11 November 2004 (11.11.2004)
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-28	YES
	Claims		NO
Inventive step (IS)	Claims	1-28	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-28	YES
	Claims		NO

2. Citations and explanations

1). Reference is made to the following documents (D):

D1: DE-A-44 36 981 (FAERBER HARTMUT) 11 April 1996

D2: DE-A-36 24 164 (HAACKE & HAACKE GMBH & CO)

21 January 1988.

2). Independent claim 1:

D1 (see, in particular, column 2, lines 37 to 49 and column 3, lines 55 to 57) describes an insulating material comprising at least one binder and at least one filler, said filler containing straw.

D2 also describes (see the abstract) an insulating material of this kind.

The subject matter of claim 1 differs from the above in that the straw is at least partly macerated.

The technical problem to be solved can therefore be considered that of providing an insulating material which can be more easily processed and shaped.

2.1 Novelty (PCT Article 33(2))

The subject matter of claim 1 is considered to be novel, because none of the documents cited in the international search report discloses all the features of the insulating material.

2.2 Inventive step (PCT Article 33(3))

D1 and D2 disclose only chopping and comminution of the straw, but not maceration. Consequently, the subject matter of claim 1 does not appear to be suggested by D1 and D2, or by the other prior art cited in the international search report, and therefore appears to involve an inventive step.

2.3 Industrial applicability (PCT Article 33(4))

The device as per claim 1 can be considered to be industrially applicable, because it can be used in automobile manufacture.

3. Independent claims 21 and 28

For reasons similar to those concerning the subject matter of claim 1, the subjects of claims 21 and 28 also appear to comply with the requirements of PCT Article 33(1), the subject matter of claim 28 being interpreted for this assessment as "use of an insulating material according to any one of the claims 1 to 19 for means of locomotion, more particularly motor vehicles, rail vehicles, aircraft or ships" (cf. the description, page 6, lines 8 to 11 and see the following observations).

Additional observations:

1.) Independent claims 1 and 21 are not delimited over documents D1 or D2 (see item 2 above) (PCT Rule 6.3(b)).

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2.) Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents D1 and D2 or indicate the relevant prior art disclosed therein.

3.) The expression "... of chopped or macerated straw as a component ..." in the amended claim 28 is now contradictory and leaves the reader uncertain as to the meaning of the technical feature in question, because macerated straw is already necessarily present as a component in consequence of the back-reference of the claim and chopped straw as an option is likewise already provided as a component in consequence of the back-reference to claim 19. As a result, the subject matter of said claim is not clearly defined (PCT Article 6) (see item 3 above).

4.) The back-reference of claims 22 to 27 is not clear (PCT Article 6), because the method is only defined in claim 21 onward. Similarly, the back-reference of claim 28 is not clear, because the insulating material is mentioned only in claims 1 to 19.